

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Daniel E. Smelko,

Case No. 5:17-cv-1673

Petitioner

v.

MEMORANDUM OPINION

Warden David Marquis,

Respondent

Before me is the January 5, 2018, Report and Recommendation of Magistrate Judge James R. Knepp, II, recommending dismissal of Petitioner's motion for summary judgment. Petitioner initiated this action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Under the relevant statute, "[w]ithin fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court." 28 U.S.C. § 636(b) (1); *United States v. Campbell*, 261 F.3d 628 (6th Cir. 2001). In this case, the fourteen day period has elapsed and no objections have been filed.

The failure to file written objections to the Magistrate Judge's report and recommendation constitutes a waiver of a determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Smith v. Detroit Fed'n of Teachers, Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) ("only those specific objections to the magistrate's report made to the district court will be preserved for appellate review").

Following review of the Magistrate Judge's Report and Recommendation, I adopt the Report and Recommendation (Doc. No. 13) in its entirety as the Order of the Court. Petitioner's motion for summary judgment (Doc. No. 2) is denied.

This matter is referred back to Magistrate Judge Knepp for further proceedings. (Doc. No. 14).

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge